

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

IN RE MERCEDES-BENZ EMISSIONS
LITIGATION

Civil Action No. 2:16-cv-881 (JLL) (JAD)

ELECTRONICALLY FILED

**DEFENDANTS MERCEDES-BENZ USA, LLC
AND DAIMLER AG'S NOTICE OF OBJECTION**

Defendants Mercedes-Benz USA, LLC and Daimler AG (the "Mercedes Defendants") hereby provide notice of their objection to Plaintiff Gwendolyn Andary and Plaintiff Darrell Feller's purported "Notice of Voluntary Dismissal" pursuant to Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure (D.E. 183) because the rule does not apply in the present circumstances and their claims are on appeal to the Third Circuit. *See* D.E. 174 (Notice of Appeal). The Mercedes Defendants also provide notice of their objection to this Court's "So Ordered" notation dated March 19, 2019, and entered on the docket on March 21, 2019 (D.E. 187) for related reasons. *See* Fed. R. Civ. P. 81(a)(6)(B) (providing an exception to the Federal Rules of Civil Procedure for "other procedures" under the Federal Arbitration Act, "9 U.S.C., relating to arbitration"); *ISC Holding AG v. Nobel Biocare Fin. AG*, 688 F.3d 98, 101 (2d Cir. 2012) (holding that "Rule 41(a)(1)(A)(i) does not apply in the context of petitions to compel arbitration"); *see also Ehleiter v. Grapetree Shores, Inc.*, 482 F.3d 207, 215 n.6 (3d Cir. 2007) (agreeing "with the majority rule of automatic divestiture" of district court jurisdiction over claims appealed under 9 U.S.C. § 16(a)).

Dated: March 28, 2019

Respectfully Submitted,

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